

**A CASE COMMENTARY ON M. SIDDIQ (D) The. Lrs. v/s. MAHANT SURESH DAS  
AND Ors.**

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**Kamaleshwar S\***

**CITATION:** Civil Appeal Nos 10866-10867 of 2010 2019 SCC Online 1440.

**BENCH:** Ranjan Gogoi, D Y Chandrachud, Abdul Nazeer, Ashok Bhushan, Sharad Bobde.

**JUDGMENT:** 9th November 2019

## **INTRODUCTION**

The following paper offers a critical evaluation of the Ayodhya dispute, sometimes referred to as the M. Siddiq v. Mahant Suresh Das case. The Ayodhya case revolves around a disputed site in India where the Babri Masjid<sup>1</sup> once stood. It is one of the most significant and contentious legal battles in India's history, capturing the attention and emotions of millions across the nation. This is closely connected with the religious sentiments of the two most distinct religions in India i.e., Hindus and Muslims. The collision of religious beliefs and the ensuing conflict over the ownership and destiny of the site sparked a chain of events that would shape the course of India's socio-political landscape. The Babri Masjid was destroyed in 1992 by a sizable contingent of Hindu nationalists who claimed that it had been constructed on the remains of an old Hindu shrine designating the birthplace of Lord Rama. Nationwide protests and acts of violence were sparked by the demolition. After the demolition, several legal actions were taken. In 2010, the Allahabad High Court delivered a verdict on the title suit, dividing the disputed land into three equal parts among Hindu and Muslim parties, with one-third going to the Sunni Waqf Board and two-thirds to Hindu organizations<sup>2</sup>. The verdict was appealed by both parties. The Supreme Court's decision attempted to navigate the difficulties of religion, history, and the law with the ultimate goal of promoting peace and curing the wounds caused by years of conflict. The repercussions of this judgment had an impact all over the country, prompting debate over the nature of religious diversity and the precarious relationship between faith and the rule of law in a diverse society. The Supreme Court had to evaluate the law, factual

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<sup>1</sup> IndiaNetzone, 'Babri Mosque' (9th April 2023) <[https://www.indianetzone.com/5/babri\\_mosque.htm](https://www.indianetzone.com/5/babri_mosque.htm)> accessed 10th June 2023

<sup>2</sup> Supreme court observer, 'Ayodhya Title Dispute' (May 2019) <<https://www.scoobserver.in/cases/m-siddiq-v-mahant-das-ayodhya-title-dispute-case-background/>> accessed 10th June 2023

evidence, public opinion on matters of religion, and, most crucially, the effect or impact of the decision since it could trigger riots if it hurt public sentiment. Not the least, is the realization that reaching a consensus was not as simple as we would have thought.

## **BACKGROUND AND FACTS OF THE CASE**

***Babri masjid and the disputes:*** In the year 1527, Invading India, Mughal emperor Babar killed numerous monarchs and conquered their lands. Babar's viceroy, General Mir Baqi, came to Ayodhya later in 1528, built the mosque, and gave it the name Babri Masjid. From 1853 through 1859, there were riots between Hindus and Muslims. The British government took action during the riots and chose to split the land into two. The Hindus were given the outside of the mosque, and the Muslims were given the interior. Things were pleasant for a period of time, but then disagreements returned, and they eventually reached court when Mahant Raghuvir Das demanded a place to stay to perform pooja.

***After Independence:*** On December 23, 1949, a statue of Ram was erected in the middle of the mosque. As the tensions grew worse, the Indian government decided to shut down the entire area. Mahant Ram Chandra Das requested Ram worship on the property in 1950. Nirmohi Akhara requested full control of the land in 1959. Later in 1961, the Sunni Waqf Board requested ownership of the Babri Masjid. While the Babri Masjid Action group was being formed, the Vishwa Hindu Parishad was taking shape whose main aim was to build a Ram Mandir. In 1986, a court in nearby Faizabad had ordered that the gates of the mosque at Ayodhya be unlocked and its premises made available for Hindu worship<sup>3</sup>. In an effort to prevent escalating racial tensions, the Additional Magistrate ruled that the site be put under the receivership of the Chairman of the Municipal Board and issued a preliminary order<sup>4</sup> under Section 145 of the Code of Criminal Procedure, 1898<sup>5</sup>.

Ram Lalla Virajman requested full possession of the land in the year 1989. The situation was growing out of control with each passing day. The former Home Minister, Lal Krishna Advani, began a rath Yatra from Gujarat to UP in the year 1990. This event had many dramatic consequences both inside and outside of the party. Later in 1991, when riots became more

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<sup>3</sup> GlobalSecurity.org, 'Ayodhya'( 22nd July 2013)<

<https://www.globalsecurity.org/military/world/war/ayodhya.htm> > accessed on 12th June 2023

<sup>4</sup> Supra note 2

<sup>5</sup> Code of Criminal Procedure, 1898

frequent, the Kalyan Singh government [UP] took full control of the territory in an effort to regulate the situation.

***Demolition of Babri Masjid:*** On December 6, 1992, a temporary Ram temple was erected in its place after the Babri Masjid was destroyed. Riots broke out over all of India as a result of this occurrence. The Liberhan committee was established to take care of the area and track down those guilty of the masjid's demolition. During this time, the ruling party [congress] suggested that four different structures be built on the contested land: a mosque, a temple, a library, and a museum. The BJP was against this idea. When the BJP came to power, Atal Bihari Vajpayee, the then-prime minister, launched the Ayodhya Vibhag in 2002, with the aim of resolving the conflict<sup>6</sup>.

***The HC order:*** The Allahabad High Court convened a three-judge bench in 2002 to determine who owned the land. The ASI was mandated to create a report by the high court. After the High Court took into account all the facts, Ram Lalla Virajman received the Ram murti; the Resol, Bandara, and Ram Chabutra areas were granted to Nirmohi Akhara; and the remaining acreage was awarded to the Sunni Waqf Board. Later, on May 9, 2011, the SC suspended the order.

***The Supreme Court:*** In 2017, JS Khehar, who was India's chief justice at the time, intended to resolve the case out of court. Consequently, a mediation panel was established on March 8th, 2019. Justice Faqir Muhammad Ibrahim Kalifulla was chosen by the Supreme Court to chair the three-person mediation group, which also included eminent lawyer Sriram Panchu and Sri Sri Ravi Shankar, the founder of the Art of Living. It delivered its report in May 2019. After a 40-day hearing, the Court withheld the ruling and ordered the parties to submit a proposal of relief as an alternative remedy.

## ISSUES

1. Whether the destruction of the Babri Masjid was unlawful.
2. Whether the Hindu temple was demolished or modified to build a mosque.
3. Whether the land of Ayodhya belongs to Muslims or Hindus.

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<sup>6</sup> P.V.NARASIMHA RAO, AYODHYA - 6 DECEMBER 1992, 2019

## CONTENTION

**Arguments Advanced by the Plaintiff:** In December 1992 there was a mosque (Babri Masjid), consequently, the court must consider this fact. Additionally, it was unlawful for the Ram idol to be installed inside the mosque in 1949. Therefore, it is forbidden to reap benefits for the offenders. Rajiv Dhavan further argued that since Ram Chabutra (a location within the disputed area) was the site of Lord Ram's birth, the Hindus should be entitled to the Ram Chabutra region. However, the Plaintiff demanded access to the contested area's inner courtyard.

**Arguments Advanced by the Defendants:** According to the defendants, the Ram temple which was later destroyed and replaced with a mosque, was said to have been present from the start. And since 1949 the area has been under the control of the Hindus. The defendants urged the court to rely on the ASI research, which unequivocally establishes that a Hindu temple existed prior to the construction of the mosque. Thus defendants wanted the entire land that was under dispute.

## JUDGMENT

The Supreme Court stated that it was impossible to ascertain who owned the land solely on the basis of the reports or demands made by the parties. However, it is decided using both factual data and legal grounds. According to historical data, the land must belong to Hindus because they have been worshipping Lord Ram since 1857. The Allahabad High Court's verdict was quashed by the Supreme Court since it was deemed to be an unjustified relief. In light of this, the Supreme Court, in the year 2019, acting in accordance with its authority granted by Article 142 of the Indian Constitution, issued a ruling stating that the defendants shall own the 2.77 acres of land in Ayodhya and that the plaintiffs must be given 5 acres of land elsewhere by the Central government.

## CRITICAL ANALYSIS

Never has history demonstrated that both parties have been satisfied with the outcome of a court case. However, in the case of Ayodhya in 2019, both parties have made satisfactory progress. The Supreme Court's work and intervention in the case after it had slipped out of grasp during the mediation sessions, charred by Justice (Rtd.) Kalifullah, Sri Sri Ravi Shankar of the Art of Living and senior advocate Sriram Panchu allowed all that to happen. The

Supreme Court's ruling in the matter of M. Siddiq v. Mahant Suresh Das, in my opinion, is quite momentous and unsatisfactory at the same time, for a number of reasons. It was also crucial to remember that even while the Supreme Court itself believed the destruction of the Babri Masjid was unlawful, the first issue, it did not take that into account because the matter at hand was a civil lawsuit.

The second issue before the court was whether the Hindu temple was demolished or modified to build a mosque. In April 2002, a 3 judge bench of the Allahabad High Court directed the Archeological Survey of India [ASI] to conduct an investigation and submit a report at the earliest. According to the report, there was a temple during the 12th century and later in the year 1528, the temple was demolished and a mosque was built. This report was also accepted by the Supreme Court during the hearing. However, it's important to note that various experts and historians have raised questions and criticisms regarding the ASI report. Some have argued that the report's conclusions were politically influenced and lacked scientific rigor. The detailed analysis refutes the theory of the existence of the temple. Research tells us that the discoveries contain nothing that can be regarded as archeological evidence in the scientific sense. The analysis provided clearly demonstrates with clinching evidence that most of the so-called brick pillar bases were not only not contemporaneous, but were in all likelihood, not the vestiges of pillar bases<sup>7</sup>.

The third issue before this court was whether the land of Ayodhya belonged to Muslims or Hindus. The Supreme Court's ruling makes it abundantly apparent that Ram Lalla Virajman (Hindus) will own the 2.77 acres of land in Ayodhya, while the Sunni Waqf Board shall get 5 acres of land from the central government. Although the judgment may appear to be extremely considerate, in my perspective, I believe that it was not sufficiently equitable. Muslims received 5 acres of land as compensation for Hindus receiving the 2.77 acres in question. The reason the Supreme Court delivered such an order is one question that is not very clear.

The inclusion of the **deity** Ram Lalla in the litigation in 1989 (represented by Deoki Nandan Agarwal, a former judge of the Allahabad High Court) brought a new dimension to the legal proceedings. The inclusion of Ram Lalla as a party added a religious aspect to the legal proceedings, making it a complex and emotionally charged case, even though it was supposed to be a simple land dispute case. It was argued that the deity had legal rights and interests in

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<sup>7</sup> D MANDAL, AYODHYA ARCHAEOLOGY AFTER DEMOLITION, Pg NO - 57,

the land, and therefore, representation was required to safeguard those rights during the legal proceedings. The concept of juristic entities in Indian law has been recognized and applied in various legal cases and contexts. In *Sri Venkataramana Devaru & Ors. v. State of Mysore* (1958)<sup>8</sup> The Supreme Court of India recognized that deities in Hindu temples have a legal personality and are considered juristic entities capable of holding property and having rights and obligations.

The selection of a jurist entity might not accurately reflect the various viewpoints and interests of the parties. In a situation with numerous parties involved, like the Ayodhya issue, it is crucial to make sure that all pertinent opinions are heard and taken into account. Despite the fact that their understanding may be beneficial, it is crucial to make sure that they follow established legal rules and constitutional standards without adding any personal preferences or factors that might stray from the rule of law.

Coming back to the Ayodhya judgment, I believe that the Supreme Court served rightfully when it granted Hindus the custody of 2.77 acres of land in Ayodhya and this can be justified by the fact that Hindus have owned the land since the very beginning. Also, the Supreme Court itself ruled that namaz could be offered anywhere in the landmark case of *Dr. M. Ismail Faruqui v. Union of India*<sup>9</sup>, where the petitioner, Ismail Faruqui, challenged the legality of the 1993 Acquisition of Certain Area at Ayodhya Act, which authorized the acquisition of 67.703 acres in the Ram Janmabhoomi-Babri Masjid complex in Ayodhya. The judges stated, “Mosque is not an important component of the practice of the religion of Islam and namaz by Muslims can be offered anywhere, even in the open.”<sup>10</sup>

Clause 3 of Section 353 of the CrPC establishes a procedure that requires the judge who wrote the decision to date and sign it in front of the entire court. The Supreme Court issued all of its decisions in accordance with this process. The 1024-page Ayodhya judgment's author is still a mystery. But the mystery is far from over. While the main judgment is unanimous, the last paragraph of the main judgment states that one of the judges on the bench has recorded separate reasoning on whether the contested building is Lord Rama's birthplace in accordance with

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<sup>8</sup> *Sri Venkataramana Devaru v. State of Mysore* 1958 AIR 255, 1958 SCR 895, August 2nd 2022, <<https://lawfaculty.in/sri-venkataramana-devaru-v-the-state-of-mysore/>>

<sup>9</sup> *Ismael Faruqui v/s. Union of India* AIR 1995 SC 605 A, Mayank Raj Pranav, 25th December 2020, <<http://probono-india.in/research-paper-detail.php?id=723>>

<sup>10</sup> Id



Hindu devotees' religion and belief. An addendum contains the learned judge's explanations<sup>11</sup>. This 116-page addendum's author has also chosen to maintain their anonymity. Only the five judges on the bench have firsthand knowledge of who the author was. Considering the controversial nature of this case, I believe the unanimity was preserved.

As mentioned previously, a number of causes and intricate issues surrounding the dispute led to the realization that finding an agreement in the Ayodhya case was more difficult than first thought. The case presented legal difficulties because it required analyzing archaeological material, interpreting historical texts, and applying constitutional concepts. It proved to be a difficult effort to strike a balance between the ideals of justice, religious freedom, and equality before the law in a multicultural and pluralistic society.

## **AFTERMATH OF THE JUDGMENT**

The five judges' bench of the Supreme Court unanimously pronounced its verdict on 9 November 2019. It ordered that the land be handed over to a trust to build a Hindu temple at the site. The Court also directed the government to provide an alternative 5-acre plot of land to the Sunni Waqf Board for the construction of a mosque. Following the judgment, the Government of India established the Shri Ram Janmabhoomi Teerth Kshetra Trust, which was entrusted with the responsibility of constructing the Ram temple at the disputed site. The trust began making preparations for the construction process. After obtaining the necessary clearances and permissions, the construction of the Ram temple at the disputed site in Ayodhya began on August 5, 2020, with a groundbreaking ceremony attended by various religious and political leaders. Indian Prime Minister Narendra Modi performed the Bhoomi Pujan and laid the foundation stone for the temple. Following the judgment, some parties sought a review of the Supreme Court's decision. However, in November 2019, the Supreme Court dismissed all review petitions, upholding its original verdict.

## **CONCLUSION**

With deep historical, religious, and political dimensions, the Ayodhya case presented a complex challenge in reaching a consensus. The Supreme Court's verdict aimed at promoting social unity. The decision was seen as a political and moral reconciliation rather than purely an

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<sup>11</sup> Shreya Sinha, 'Who wrote Ayodhya verdict' (April 4th 2022)  
<<https://www.indiatoday.in/india/story/ayodhya-verdict-full-text-addendum-mystery-author-1617468-2019-11-09>>

adjudication of religious rights. The unanimous verdict, spanning over 1,000 pages, brought relief to those seeking justice and resolution. It signified the judiciary's effort to provide closure to a longstanding dispute that had caused communal tensions and political divisions. Despite criticisms, the verdict aimed to reconcile constitutional democracy with the sentiments of the majority, and it was viewed as a step towards nurturing secular values, tolerance, and mutual coexistence. However, the decision left some dissatisfied and raised concerns about its impact on the affected community and the broader legal system. In conclusion, the Ayodhya case highlighted the complexities involved in resolving a highly contentious and emotive dispute.

